



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Highway Administration**

[FHWA Docket No. FHWA-2016-0006]

### **Notice of Funding Opportunity for Surface Transportation System Funding**

#### **Alternatives Program**

**AGENCY:** Federal Highway Administration (FHWA), Department of Transportation (DOT).

**ACTION:** Notice of Funding Opportunity.

**SUMMARY:** Section 6020 of the Fixing America's Surface Transportation (FAST) Act directs the DOT to establish the Surface Transportation System Funding Alternatives (STSFA) program to provide grants to States to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Federal Highway Trust Fund. Section 6020 provides \$15 million for fiscal year (FY) 2016 and \$20 million for each of FYs 2017-2020 out of funds set aside in section 6002(a)(1), which authorizes funds for the Highway Research and Development Program. These grants shall make up no more than 50 percent of total proposed project costs, with the remainder coming from non-Federal sources. This Notice of Funding Opportunity for the STSFA program seeks applications from States or groups of States.

**DATES:** Applications must be submitted by 3:00 p.m., e.t., on or by May 20, 2016. The Grants.gov "Apply" function will open by [Federal Register insert date of publication]. Applications should be submitted through <http://www.grants.gov>.

**ADDRESSES:** Applications must be submitted through [www.Grants.gov](http://www.Grants.gov). Only applicants who comply with all submission requirements described in this notice and submit applications through [www.Grants.gov](http://www.Grants.gov) will be eligible for award.

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this notice, please contact the FHWA via e-mail at [STSFA@dot.gov](mailto:STSFA@dot.gov). For questions about the STSFA program, contact Mr. Robert Arnold, Director, FHWA Office of Transportation Management, telephone 202-366-1285, or via e-mail at [Robert.Arnold@dot.gov](mailto:Robert.Arnold@dot.gov); or Angela Jacobs, Program Manager, telephone 202-366-0076, or via e-mail at [Angela.Jacobs@dot.gov](mailto:Angela.Jacobs@dot.gov). For legal questions, please contact Mr. Adam Sleeter, Attorney-Advisor, FHWA Office of the Chief Counsel, telephone 202-366-8839, or via e-mail at [Adam.Sleeter@dot.gov](mailto:Adam.Sleeter@dot.gov). Business hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays. A telecommunications device for the deaf (TDD) is available at 202-366-3993.

Additionally, the DOT will regularly post answers to questions, requests for clarification, and information about Webinars for further guidance at <http://www.grants.gov/>.

## **SUPPLEMENTARY INFORMATION:**

### **Electronic Access**

An electronic copy of this document may be downloaded from the Federal Register's Web site at <http://www.archives.gov> and the Government Printing Office's database at <http://www.access.gpo.gov/nara>.

**Supplementary Information:** This notice solicits applications for the STSFA program for FY 2016 from States or groups of States to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Federal Highway Trust Fund. Each section of this notice contains information and instructions relevant to the application process for STSFA grants. The applicant should read this notice in its entirety to submit eligible and competitive applications.

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### **A. Program Description**

Section 6020 of the FAST Act (PL 114-94) directs the DOT to establish a program to provide grants to States or groups of States to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund. This solicitation seeks applications that meet the following objectives:

- To test the design, acceptance, and implementation of a user-based alternative

revenue mechanisms.

- To improve the functionality of such user-based alternative revenue mechanisms.
- To conduct outreach to increase public awareness regarding the need for alternative funding sources for surface transportation programs and to provide information on possible approaches.
- To provide recommendations regarding adoption and implementation of user-based alternative revenue mechanisms.
- To minimize the administrative cost of deploying any potential user-based alternative revenue mechanisms.
- Minimize the administrative costs associated with the collection of fees.

Though pilot projects of any size or scope may be proposed, the DOT is most interested in funding larger scale pilots, rather than smaller scale proof of concept projects, and in awarding funds to both single State and multi-State pilots.

The purpose of the STSFA grants is for a State or group of States to test the design, acceptance, and implementation of a user-based alternative revenue mechanism. An application shall address or describe how the proposed demonstration has already addressed:

- **Implementation, interoperability, public acceptance and potential hurdles to adoption of the demonstrated user-based alternative revenue mechanism.** There

are a number of logistical, technological, and societal issues that will need to be addressed in any alternative to the current user fee structure. These range from potential additional logistical burdens imposed by the mechanism to explaining to the public why the current gas tax is no longer a sustainable funding source. While some demonstrations of the effectiveness of alternative funding mechanisms to date have focused on light vehicles, the consideration of the impacts on heavy vehicles is also of interest.

- **Privacy protection.** The current system provides almost complete privacy protection. Any new mechanism would have to provide the same level of protection by design, either perceived or real, or employ mitigating strategies that reduce the risk to acceptable levels. This extends into the area of data security and access beyond the requirements of the user fee collection.
- **Use of independent and private third party vendors.** The use of private sector third party vendors to administer and operate a system could reduce such costs, offset administrative costs by offering value-added services, or alleviate privacy concerns generated by government administration of the user fee collection process. However, other concerns could be raised depending on the degree of private sector involvement envisioned.
- **Congestion mitigation impacts.** To the extent market forces or governmental incentives under the mechanism might positively or negatively impact roadway

congestion or be used to leverage congestion reduction strategies, those impacts should be addressed in the proposal.

- **Equity concerns (including impacts on differing income groups, various geographic areas and relative burdens on rural and urban drivers).** The implementation of alternative user-based revenue mechanisms may alter the distribution of cost burdens among different classes of users of the transportation system relative to those imposed by current mechanisms for funding surface transportation. Those burdens could result from changes in the basis of assessing user fees (such as from fuel consumption to miles traveled) and from new administrative processes for collecting fees (such as purchasing the necessary technology and reporting vehicle use). Of particular concern are changes that could increase the relative cost burdens on economically disadvantaged populations who would be least able to afford such a change. New mechanisms could also shift the relative costs paid by drivers in different regions of a State, particularly between urban and rural areas.
- **Ease of user compliance.** The current collection system for fuel taxes (the predominant source of highway user-based fees) is mostly transparent to the user; does not require any additional action beyond fuel purchasing; and is relatively invulnerable to avoidance by consumers. Any new mechanism would need to carefully consider and evaluate how compliance can be enforced without imposing undue costs or other burdens on different classes of users.

- **Reliability and security on the use of technology.** Threats to the success of the mechanism can be both malicious (e.g., hacking attacks) and non-malicious (e.g., equipment failures). Any system should address the robustness of the technology and processes to withstand and recover from such events.

The application for the pilot project may address:

- the flexibility and choices of user-based alternative revenue mechanisms, including the ability of users to select from various technology and payment options;
- the cost of administering the user-based alternative revenue mechanism; and
- the ability of the administering entity to audit and enforce user compliance.

It is anticipated that up to \$15 million will be awarded during FY 2016 for these three types of proposals, with larger awards for new demonstration projects and extensions or enhancements of existing demonstration projects, and smaller awards for pre-demonstration activities. Projects receiving awards for pre-demonstration activities in FY 2016 are not guaranteed to receive future funding for demonstration activities.

## **B. Federal Award Information**

Per section 6020 of the FAST Act, the planned award type is a grant to a State or group of States.

## **C. Eligibility Information**

### **1. Eligible Applicants**

To be selected for an STSFA award, an applicant must be a State or group of States. However, in the case of a group of States, this solicitation requires that a single State Department of Transportation (State DOT) serve as the lead agency for administering the program funding through the Federal-aid highway program. Another State agency or a State agency in a different State (if the project involves a group of States) may be responsible for providing day-to-day project oversight. It is expected that at all relevant State agencies (e.g., Departments of Motor Vehicles, Departments of Revenue) needed to initiate a full-scale deployment of the proposed revenue mechanism will be actively involved in the planning and operation of the demonstration.

## **2. Cost Sharing or Matching**

Cost sharing or matching is required, with the maximum Federal share being 50 percent of future eligible costs. Therefore, a minimum non-Federal cost share of 50 percent is required. Cost sharing or matching means the portion of project costs not paid by Federal funds. For a more complete definition, please see the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at part 200, title 2, Code of Federal Regulations (2 CFR 200), including section 200.306 on cost sharing or matching. Other Federal funds using the appropriate matching share may be leveraged for the deployment but cannot be considered as part of the STSFA matching funds, unless otherwise supported by statute.

## **D. Application and Submission Information**



## 1. Address

Applicants may obtain application forms at [www.grants.gov](http://www.grants.gov) under the Notice of Funding Opportunity Number cited herein. The applicant must complete and submit all forms included in the application package for this notice as contained at [www.grants.gov](http://www.grants.gov).

## 2. Content and Form of Application Submission

The application must include the Standard Form (SF) 424 (Application for Federal Assistance), SF 424A (Budget Information for Non-Construction Programs), SF 424B (Assurances for Non-Construction Programs), Grants.gov Lobbying Form, cover page, and the Project Narrative. The SFs are available online at <http://www.grants.gov/web/grants/forms/sf-424-family.html>. More detailed information about the cover page and project narrative follows.

### a. Cover Page Including the Following Table:

Project Name	
Previously Incurred Project Cost	\$
Future Eligible Project Cost	\$
Total Project Cost	\$
STSFA Request	\$
Total Federal Funding (including STSFA)	\$
Are matching funds restricted to a specific project component? If so, which one?	Yes/No

State(s) in which the project is located	
Is the project currently programmed in the: <ul style="list-style-type: none"> <li>• Transportation Improvement Program (TIP)</li> <li>• Statewide Transportation Improvement Program (STIP)</li> <li>• Metropolitan Planning Organization (MPO) Long Range Transportation Plan</li> <li>• State Long Range Transportation Plan</li> </ul>	Yes/No – <i>please specify in which plans the project is currently programmed</i>

b. Project Narrative

The application must include information required for the DOT to determine that the project satisfies requirements described in sections A, B, and C and to assess the selection criteria specified in section E.1. To the extent practicable, applicants should provide data and evidence of project merits in a form that is verifiable or publicly available. The DOT may ask any applicant to supplement data in its application, but expects applications to be complete upon submission.

The DOT recommends that the project narrative adhere to the following basic outline of a project description, staffing description, and funding description to clearly address the program requirements and make critical information readily apparent. In addition to a detailed statement of work, detailed project schedule, and detailed project budget, the project narrative should include a table of contents, maps, and graphics as

appropriate to make the information easier to review. The DOT recommends that the project narrative be prepared with standard formatting preferences (i.e., a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). The project narrative may not exceed 25 pages in length, excluding cover pages and table of contents. The only substantive portions that may exceed the 25-page limit are documents to support assertions or conclusions made in the project narrative, or résumés of key staff described in the project narrative. If supporting documents are submitted, applicants must clearly identify the relevant portion of the project narrative that each supporting document supports within the project narrative.

c. Project description

- 1) An introduction that provides a one to two-page summary of the proposed technology deployment(s).
- 2) A description of the entity that will be entering into the agreement with FHWA including:
  - a) membership of any partnership or entity proposed to carry out the deployment; and
  - b) a description of how the entity will manage the program including project funding

In the case of a group of States, applicants should show evidence that a memorandum of understanding, or other organizational mechanism can be executed in a reasonable timeframe after selection

- 3) A description of the geographic area or jurisdiction the deployment will service.
- 4) A description of any challenges in the regulatory, legislative, or institutional environments or other obstacles to deployment.
- 5) A schedule for conducting the demonstration and for completion of all proposed activities.
- 6) Criteria contained in FAST Act section 6020(d) (see section A “Program Description” that explains what a pilot project shall and may address).

d. Organizational Information

In addition to the forms, provide answers to the following organizational information questions in a pdf format:

- 1) Identify any exceptions to the anticipated award terms and conditions as contained in section F (Federal Award Administration Information). Identify any preexisting intellectual property that you anticipate using during award performance, and your position on its data rights during and after the award period of performance.
- 2) The use of a Dun and Bradstreet Data Universal Numbering System (DUNS) number is required on all applications for Federal grants. Please provide your organization’s DUNS number in your budget application.

- 3) A statement to indicate whether your organization has previously completed an A-133 Single Audit and, if so, the date that the last A-133 Single Audit was completed.
- 4) A statement regarding conflicts of interest. The applicant must disclose in writing any actual or potential personal or organizational conflict of interest in its application that describes in a concise manner all past, present or planned organizational, contractual or other interest(s), which may affect the applicants' ability to perform the proposed project in an impartial and objective manner. Actual or potential conflicts of interest may include but are not limited to any past, present or planned contractual, financial, or other relationships, obligations, commitments, and responsibilities, which may bias the applicant or affect the applicant's ability to perform the agreement in an impartial and objective manner. The Agreement Officer (AO) will review the statement(s) and may require additional relevant information from the applicant. All such information, and any other relevant information known to DOT, will be used to determine whether an award to the applicant may create an actual or potential conflict of interest. If any such conflict of interest is found to exist, the AO may disqualify the applicant, or determine that it is otherwise in the best interest of the United States to contract with the applicant and include appropriate provisions to mitigate or avoid such conflict in the agreement pursuant to 2 CFR 200.112.

- 5) A statement to indicate whether a Federal or State organization has audited or reviewed the applicant's accounting system, purchasing system, and/or property control system. If such systems have been reviewed, provide summary information of the audit/review results to include, as applicable, the summary letter or agreement, date of audit/review, and Federal or State point of contact (POC) for such review.
- 6) Terminated Contracts. List any contract/agreement that was terminated for convenience of the Government within the past 3 years, and any contract/agreement that was terminated for default within the past 5 years. Briefly explain the circumstances in each instance.
- 7) The applicant is directed to review 2 CFR 170 ([http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr170\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title02/2cfr170_main_02.tpl)), dated September 14, 2010, and Appendix A thereto, and acknowledge in its application that it understands the requirement, has the necessary processes and systems in place, and is prepared to fully comply with the reporting described in the term if it receives funding resulting from this notice. The text of Appendix A will be incorporated in the award document as a General Term and Condition as referenced under this notice's section F (Federal Award Administration Information).
- 8) Disclose any violations of Federal criminal law involving fraud, bribery, or gratuity violations. Failure to make required disclosures can result in any of

the remedies described in 2 CFR 200.338 (remedies for noncompliance, including suspension or debarment). (See also 2 CFR 180 and section 3321, title 31, United States Code (31 U.S.C. 3321).)

c. Funding description

Applications must include a breakdown of estimated costs across project work areas or tasks, including an identification of funding sources and amounts.

*Unique identifier and system for award (SAM).* The applicant is required to: (1) be registered in SAM before submitting its application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information while it has an active Federal award, application, or plan under consideration by a Federal awarding agency.

The Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, it may determine that the applicant is not qualified and use that determination as a basis for denial.

*Submission dates and times.*

3. Deadline

Applications must be submitted through [www.grants.gov](http://www.grants.gov) by 3:00 p.m., e.t., by May 20, 2016, which is the date and time by which the FHWA must receive the full and completed application, including all required sections.

To submit an application through Grants.gov, applicants must:

- a) Obtain a DUNS number;
- b) Register with the SAM at [www.sam.gov](http://www.sam.gov);
- c) Create a Grants.gov username and password; and

d) The E-business POC at the applicant's organization must respond to the registration e-mail from Grants.gov and login to authorize the POC as an Authorized Organization Representative (AOR). Please note that there can only be one AOR per organization.

Please note that the Grants.gov registration process usually takes 2-4 weeks to complete and late applications that are the result of failure to register or comply with Grants.gov applicant requirements in a timely manner will not be considered. For information and instruction on each of these processes, please see instructions at <http://www.grants.gov/web/grants/applicants/applicant-faqs.html>. If interested parties experience difficulties at any point during the registration or application process, please call the Grants.gov Customer Service Support Hotline at 800-518-4726, from 7:00 a.m. to 9:00 p.m., e.t., Monday through Friday.

#### 4. Consideration of Application

Only applicants who comply with all submission deadlines described in this notice and submit applications through Grants.gov will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.



Applicants interested in applying are encouraged to e-mail STSFA@dot.gov no later than April 22, 2016, with applicant name, State in which project is located, approximate total project cost, amount of the STSFA grant request, and a two or three-sentence project description. The DOT seeks this early notification of interest to inform its allocation of resources for application evaluations and to facilitate timely and efficient awards.

#### 5. Late Applications

Applications received after the deadline will not be considered except in the case of unforeseen technical difficulties outlined below.

#### 6. Late Application Policy

Applicants experiencing technical issues with Grants.gov that are beyond the applicant's control must contact STSFA@dot.gov prior to the application deadline with the user name of the registrant and details of the technical issue experienced. The applicant must provide:

- a) Details of the technical issue experienced;
- b) Screen capture(s) of the technical issues experienced along with corresponding Grants.gov grant tracking number;
- c) The legal business name for the applicant that was provided in the SF 424;
- d) The AOR name submitted in the SF 424;
- e) The DUNS number associated with the application; and
- f) The Grants.gov Help Desk Tracking Number.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to complete the registration process before the deadline; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in this notice; and (4) technical issues experienced with the applicant's computer or information technology environment. After DOT staff review all information submitted and validate reported technical issues, DOT staff will contact late applicants to approve or deny a request to submit a late application. If the reported technical issues cannot be validated, late applications will be rejected as untimely.

#### **E. Application Review Information**

##### **1. Criteria**

The DOT will evaluate applications based on the following criteria, which are of equal importance.

##### **Technical Merit Criteria:**

- Alignment with program requirements.
- Reasonableness that the demonstration could lead to a viable alternative revenue mechanism.
- Maturity or readiness of the technology to demonstrate the proposed alternative revenue mechanism.
- Ability of the applicant to deploy and sustain the proposed demonstration.

- Scalability or portability of the proposed demonstration mechanism to other jurisdictions.
- Clarity, quality, and completeness of the proposal.

#### Staffing Criteria:

- Degree that the Application includes a program/project management structure or organization that will successfully oversee the proposed technology deployment.
- Expertise and qualifications of key personnel for managing or conducting appropriate aspects of the proposed technology deployment through the period of performance.

The FAST Act also requires DOT to consider geographic diversity in making awards. Additionally, DOT is most interested in funding larger scale pilots, rather than smaller scale proof of concept projects, and awarding funds to both single State and multi-State pilots.

## 2. Review and Selection Process

The DOT will review all eligible applications received before the application deadline. The STSFA process consists of a technical evaluation phase and senior review. In the technical evaluation phase, teams will determine whether each project satisfies statutory requirements and rate how well it addresses selection criteria. The senior review team will consider the applications and the technical evaluations to determine

which projects advance to the Secretary for consideration. Evaluations in both the technical evaluation and senior review team phases will place projects into rating categories, not assign numerical scores. The Secretary will select the projects for award. The DOT reserves the right to use outside expertise and/or contractor support to perform application evaluation. A panel of Agency experts will conduct a risk assessment of the applicant prior to award.

The DOT will award the applications that are considered the most advantageous using the criteria cited above, subject to the results of an applicant's risk assessment. In addition, per Sec. 6020 (e) of the FAST Act, the DOT shall ensure, to the extent practicable, that grant recipients represent diverse geographic areas of the United States.

### 3. Other Information

Prior to award, each selected applicant will be subject to a risk assessment required by 2 CFR 200.205. The DOT must review and consider any information about the applicant in the designated integrity and performance system that is accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). An applicant may review information in FAPIIS and comment on any information about itself. The DOT will consider comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards. The DOT reserves the right to deny an award based on the results of the risk assessment.

### **F. Federal Award Administration Information**

## 1. Federal Award Notices

Following the evaluation outlined in section E, the DOT will notify the selected applicants and announce the selected projects. Notice that an applicant has been selected as a recipient does not constitute approval of the application as submitted. Before the award, the DOT will contact the POC listed in the SF 424 to initiate negotiation of a project specific agreement. If the negotiations do not result in an acceptable submittal, the DOT reserves the right to terminate the negotiation and decline to fund the applicant.

## 2. Administrative and National Policy Requirements

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR 200, as adopted by DOT at 2 CFR 1201. Applicable Federal laws, rules, and regulations set forth in 23 U.S.C. and 23 CFR also apply. For a list of the applicable laws, rules, regulations, executive orders, policies, guidelines, and requirements related to STSFA projects, please see <http://www.fhwa.dot.gov/aaa/generaltermsconditions.cfm>.

## 3. Reporting

### a. Progress Reporting on Grant Activity

Each applicant selected for an STSFA grant must submit the Federal Financial Report (SF 425) on the financial condition of the project and its progress, and an Annual Budget Review and Program Plan to monitor the use of Federal funds and ensure accountability and financial transparency.

### b. Reporting of Matters Related to Integrity and Performance

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10 million at any time during the period of performance, then the applicant must maintain the currency of SAM and FAPIIS information about civil, criminal, or administrative proceedings described in paragraph 2 of the award terms and conditions. This is a statutory requirement under section 872 of Public Law 110–417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111–212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

c. Reporting to the Secretary

Per section 6020(h) of the FAST Act, not later than 1 year after the date on which the first eligible entity receives an STSFA grant, and each year thereafter, every recipient shall submit a report to the Secretary that describes:

- 1) How the demonstration activities carried out with grant funds meet the objectives of the STSFA program; and
- 2) Lessons learned for future deployment of alternative revenue mechanisms that utilize a user fee structure.

**G. Federal Awarding Agency Contacts**

For further information or questions concerning this notice, please contact the FHWA via e-mail at [STSFA@dot.gov](mailto:STSFA@dot.gov). For questions about the STSFA program discussed herein, contact Mr. Robert Arnold, Director, FHWA Office of Transportation Management, telephone 202-366-1285, or via e-mail at [Robert.Arnold@dot.gov](mailto:Robert.Arnold@dot.gov). A TDD is available at 202-366-3993. Additionally, the DOT will regularly post answers to questions, requests for clarification, and information about Webinars for further guidance at <http://www.grants.gov/>.

## **H. Other Information**

### **1. Public Comment**

The STSFA program is funded through FY 2020. This notice solicits applications for FY 2016 only. Because this is the first year implementing the STSFA program, FHWA invites interested parties to submit comments about this notice's contents, implementation choices within the legal bounds of the program, and suggestions for clarification in future STSFA solicitations. The FHWA seeks input on whether the information requested in applications is reasonable and clear and if additional merit criteria should be considered. The FHWA may consider the submitted comments and suggestions when developing subsequent STSFA notices and program guidance, but they will not affect the program's evaluation and selection process for FY 2016 awards. Applications or comments about specific projects should not be submitted to the docket. Any application submitted to the document will not be reviewed. Comments should be

sent to Docket Number FHWA-2016-0006 by July 1, 2016. To the extent practicable, FHWA will consider late-filed comments.

## 2. Protection of Confidential Business Information

To the extent practicable, all information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) note on the front cover that the submission “Contains Confidential Business Information (CBI);” (2) mark each affected page “CBI;” and (3) highlight or otherwise denote the CBI portions. The DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request, it will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

**Authority:** Section 6020 of the Fixing America’s Surface Transportation Act (FAST Act) (PL 114-94).

Issued on: March 23, 2016.

Gregory G. Nadeau,  
Administrator,  
Federal Highway Administration.

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